

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PETER BABADAGLIAN,

Plaintiff,

-against-

CITY OF NEW YORK, DAVID BLECK, DANIEL RIVAS,
ROBERT FAULKNER, and EDUARDO ROCHE,

Defendants.

**STIPULATION OF
SETTLEMENT**

19-CV-4136 (NG)(ST)

WHEREAS, plaintiff commenced this action by filing a complaint on or about July 17, 2019, alleging that the defendants violated plaintiff's federal civil and state common law rights; and

WHEREAS, all defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, defendant City of New York, filed an Answer in this matter on or about April 30, 2020; and

WHEREAS, defendants Daniels Rivas and David Bleck filed an Answer in this matter, including cross-claims against the City of New York, on or about April 30, 2020; and

WHEREAS, defendant City of New York has denied any and all liability arising out of defendants Rivas's and Bleck's allegations and/or cross claims; and

WHEREAS, defendants Robert Faulkner and Eduardo Roche filed an Answer in this matter, on or about July 25, 2020; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and;

WHEREAS, plaintiff has authorized his counsel to settle this matter on the terms set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed against defendants, with prejudice, and without costs, expenses, or attorneys' fees except as specified in paragraphs "2-6" below.

2. Defendant City of New York hereby agrees to pay plaintiff Peter Babadaglian the sum of One Hundred Thirty-Five Thousand Five Hundred (\$135,500.00) Dollars in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against the defendants City of New York, Robert Faulkner, and Eduardo Roche; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York or any entity represented by the Office of the Corporation Counsel, from any and all liability, claims, or rights of action alleging a violation of plaintiff's civil rights and any and all related state law claims, from the beginning of the world to the date of the General Release, including claims for costs, expenses, and attorneys' fees.

3. Defendant Daniel Rivas hereby agrees to pay plaintiff Peter Babadaglian the sum of One Thousand Dollars (\$1,000.00) in full satisfaction of all claims against defendant Rivas, including claims for costs, expenses and attorneys' fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against defendant Rivas and his successors or assigns, from any and all liability, claims, or rights of action alleging a violation of

plaintiff's civil rights and any and all related state law claims, from the beginning of the world to the date of the General Release, including claims for costs, expenses, and attorneys' fees.

4. Defendant David Bleck hereby agrees to pay plaintiff Peter Babadaglian the sum of One Thousand Dollars (\$1,000.00) in full satisfaction of all claims against defendant Bleck, including claims for costs, expenses and attorneys' fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against defendant Bleck and her successors or assigns, from any and all liability, claims, or rights of action alleging a violation of plaintiff's civil rights and any and all related state law claims, from the beginning of the world to the date of the General Release, including claims for costs, expenses, and attorneys' fees.

5. Defendants Daniel Rivas' and David Bleck's payments of One Thousand Dollars (\$1,000.00) each to Plaintiff, referenced in paragraphs 3 and 4 above, are to be paid as follows: Defendants Rivas and Bleck hereby agree to pay Plaintiff the full amount of \$1,000 each, made payable to: Peter Babadaglian and Brett H. Klein, Esq. PLLC as attorneys, by May 3, 2022.

6. In consideration of the contribution by the City of New York to resolve the claims of Peter Babadaglian, including plaintiff's attorneys' fees, costs, and expenses, defendants Daniel Rivas and David Bleck do hereby release and discharge the City of New York; its successors or assigns; all past and present officials of the City of New York; or any entity represented by the Office of the Corporation Counsel, from any and all claims that were or could have been alleged by defendants Rivas and Bleck in, or arising out of, the aforementioned action including but not limited to any claim for indemnification or attorneys' fees, costs, and expenses.

7. Plaintiff shall execute and serve on the City of New York's attorney by legal tender (either by personal service or certified mail) at 100 Church Street, New York, New

York 10007 all documents necessary to effect this settlement, including, without limitation, a General Release, based on the terms of paragraph "2" above, IRS Form W-9, and an Affidavit of Status of Liens. Prior to tendering the requisite documents to effect this settlement, Medicare-recipient plaintiffs must obtain and submit a final demand letter from their Medicare provider(s) for the reimbursement of any conditional payments made for the injuries claimed in this matter. A Medicare Set-Aside Trust may also be required if future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26.

8. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules or regulations of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations, except to enforce the terms of this agreement.

9. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

10. Plaintiff agrees to hold harmless defendants regarding any past and/or future Medicare claims, presently known or unknown, in connection with this matter. If Medicare claims are not satisfied, defendants reserve the right to issue a multiparty settlement check naming the Medicare provider as a payee or to issue a check directly to the Medicare provider for the amount claimed in the Medicare provider's final demand letter.

11. This Stipulation of Settlement contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time, nor any written

agreement entered into prior to the execution of this Stipulation of Settlement regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

BRETT H. KLEIN, ESQ. PLLC
Attorney for Plaintiff
305 Broadway Avenue, Suite 600.
New York, New York 10007

By: *Brett Klein*
Brett H. Klein, Esq.

GEORGIA M. PESTANA
Corporation Counsel of the
City of New York
*Attorney for Defendants City of New York,
Robert Faulkner, and Eduardo Roche*
100 Church Street, 3rd Floor
New York, New York 10007

By: *Amanda Rolon*
Amanda Rolon, Esq.
Assistant Corporation Counsel

WORTH, LONGWORTH and LONDON
LLP
Attorneys for Defendants Bleck and Rivas
111 John Street, Suite 640
New York, New York 10038

By: *D. LaBarbera*
Douglas LaBarbera, Esq.